



EMPLOYERS TAKE NOTE

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Despite American rhetoric about gender equality, women are subject to widespread discrimination.¹ While discrimination today is more subtle than in the past, in law it can be seen in the lower numbers of women in the ranks of partnership and higher-paid positions.² This trend is often more pronounced in the legal arena, as firms that have a thirty percent female partner rate tout their numbers as some of the most egalitarian.

One aspect that plays into gender disparity in the workplace is the fact that women more often take time off to have children.³ Legal careers require increasingly long hours and thus are seen as somewhat incompatible with part-time work and/or flexible scheduling. But even women who do not want children may get put on the “mommy track” because they are capable of having children.⁴ Now that more women are entering law school, continuing to fail to consider issues that women face when entering the legal workforce will be more problematic and is anachronistic.

One problem contributing to ongoing inequality that faces women in various contexts today is the social perception that the gender issue is no longer an issue. This problem comes to a head when a woman who recognizes that gender is still an issue, the law school interviewee, comes face-to-face with a woman who does not, her interviewer. In this circumstance, the interviewee may ask the interviewer about her experiences as a woman in the legal profession. The interviewee who sees gender inequities as a persistent problem considers this a valid and important question, relevant to her career. But the interviewer who does not believe that gender is a problem sees something different. For her, the logical explanation for the interviewee asking a “gender-loaded” question is that she is a troublemaker or radical feminist. She will not be considered for the job. This situation also can take place with male interviewers, but in the real-life situation recounted below, the interviewer was in fact a woman.

As a 2L, I participated in On Campus Interviews (“OCIs”)—the way to find a job for those wanting to work at a large firm. While many people I knew picked as many firms as caught their attention right up to the maximum number allotted, I took a different approach. I specifically selected only firms with numbers indicating they had made an effort in the area of gender equality. The information I considered, when available, was the number of women associates and women partners; the number of minority associates and partners;⁵ the availability of part-

¹ For example, numerous task forces have studied gender discrimination in the courts. See Judith Resnik, *Symposium on Civil and Legal Education: Panel One: Legal Education, Feminist Values, and Gender Bias: Ambivalence: The Resiliency of Legal Culture in the United States*, 45 STAN. L. REV. 1525, 1530 (1993) (discussing gender and racial bias task forces that repeatedly found discrimination in the courts).

² Some argue that this less blatant form of discrimination is actually *more* dangerous. See, e.g., Jennifer R. Johnson, *Privileged Justice Under Law: Reinforcement of Male Privilege by the Federal Judiciary Through the Lens of the Violence Against Women Act and U.S. v. Morrison*, 43 SANTA CLARA L. REV. (forthcoming 2003) (citing Stephanie M. Wildman, *Ending Male Privilege: Beyond the Reasonable Woman*, 98 MICH. L. REV. 1797, 1851 (2000) and STEPHANIE M. WILDMAN WITH CONTRIBUTIONS BY MARGALYNNE ARMSTRONG, ADRIENNE D. DAVIS & TRINA GRILLO, *PRIVILEGE REVEALED: HOW INVISIBLE PREFERENCE UNDERMINES AMERICA* 173 (1996)) (noting that the elusive, invisible nature of systems of privilege is what makes them so dangerous).

³ “[Du]ring the key years of career building (between the ages of twenty-five and forty-four), nearly forty percent of mothers do not work forty hours/week year round.” Joan Williams, Symposium, *Unbending Gender: Why Family and Work Conflict and What to Do About It*, 49 AM. U.L. REV. 987, 992 (2000).

⁴ This is because it is *assumed* that all women want children, and that they are willing to sacrifice job prospects to do so.

⁵ This statistic seemed indicative of an affirmative-minded hiring mentality in general.

time, flextime, or telecommuting work options; the actual number of people who took advantage of alternative work hours; and maternity and childcare leave options.⁶ This process truncated my list of potential firms, leaving just eleven that met these criteria. I bid only those eleven firms. I realized that taking this position could have cost me a job at these firms. I wanted to see if the firms were willing to walk their talk.

During interviews, on campus and at callbacks, I asked gender-loaded questions. I had only one negative experience. The interview for that firm was with two people at once, one of whom was a sixth-year near-partner female associate. When asked if I had any questions, I wanted to ask something that indicated I'd done my "homework" in researching the firm. I asked, "I notice that your firm has a stated policy of working toward equal employment opportunities for women and minorities. As a woman, what have been your experiences with this policy?"

Her answer was a sharp "I've *never* been treated like a woman. It doesn't matter if you're a man or woman, the best *person* for the job gets it." Unfortunately, I can't convey the interviewer's tone in print; her words rang of "I can't believe you'd ask such a question—what do you want, special treatment?" I knew that was it; I wasn't getting a callback.

The point of this example is that this woman was the gatekeeper for this job opportunity. Her firm probably thought it was promoting equality by having a very senior female associate as their face for the interview process. Her firm probably assumed that because she is a woman she would help bring in other women. But just having more women in a firm's "numbers" or putting a woman's face on the interviewer is not enough. Women entering the legal profession want real equality, and we recognize that this is not it.

I had several callback interviews, despite my "radical" behavior. At the interviews, I continued to test the waters. I wore pantsuits instead of skirts. I asked female partners what it had been like for them, what they thought had been different because they were women and whether they had families. I knew this was a risk. But it was a calculated risk, and one that I was not only willing to take on, but felt obligated to in order to be true to myself.

Not all female law students make employment decisions on this basis. I might even say most do not. Some would say I was in the fortunate position of having high enough grades to have choices. But I knew I would not be happy working at a firm that did not share my values. Many women would not make employment decisions on this basis, not because it is not a consideration that is important to them, but because they have decided that getting a job—any job—is more important than their values when it comes to looking back at that large law school debt. Having "a job" shouldn't be that important. The reality is that these issues *are* important to any woman considering a family. These are issues each woman will have to confront eventually. And these are biases that every woman—whether she wants a family or not—will have to confront. Women should not have to feel that they risk job opportunities for asking about what is important to them. This is what firms today need to know.

As for my results, in the end I had more than one offer and have a great job secured for fall with an employer I can be proud of. I had a choice, despite sticking closely to my beliefs.⁷ I'd be willing to bet I'm a better fit and more likely to stay at this firm as a result of this process. I am not sorry I missed out on the job "opportunity" at that other firm. In fact, I think the interviewer made the right decision. I don't belong at that firm; I don't want it as an employer any more than it wants me as an employee. This is just one woman law student's story, but I am not alone. Women law students now comprise more than half of the law school population, and we are increasingly aware of the issues we face as women. **Employers take note.**

⁶ Excel spreadsheet on file with author.

⁷ I would argue that it is *because* I stuck to my beliefs, not despite that choice.